STAFF JUDGE ADVOCATE BRIEF:

Key Topics in Legal Affairs

PRESENTATION OVERVIEW

- A look at the legal function, for context, and to provide an approach to dealing with legal issues (goals and standards)
- A look at a key topics in this context: (1) legal readiness and (2) ethics/standards of conduct (goals, standards and tools)
- A look at key information sources (tools)

THE REDCOM LEGAL FUNCTION

- SUPPORTS THE MISSION IN AREAS OF:
- Command Advice and Representation
- Good Order and Discipline
- Legal Readiness of Members

COMMAND ADVICE/REPRESENTATION

- THE SJA IS THE LAWYER FOR THE COMMAND:
- General Legal Advice – A Broad Range
- Key Programs/Responsibilities
  - Ethics
  - Discipline
  - Administrative Law Matters
- Mobilization Issues
- Investigations/Congressional Inquiries
- REDCOM JAG Personnel

COMMAND ADVICE/REPRESENTATION

COMMAND LEGAL ADVISOR PROGRAM UNDERGOING CHANGE:

- All issues to be referred through SJA
- CLAs will continue to be assigned to all Reserve Centers on as-desired/needed/available basis
- REDCOMMIDLANTINST 5801.2 (in revision) controls

USING THE RESOURCE

- Prepare – Be Familiar with the Law and the Problem
  - Pursue Legal Familiarization Training and Reading
  - Know the Facts of the Problem/Issue
- Communicate -- Up Front
  - Use the SJA/CLA Network
  - When in Doubt, Call, E-mail, Use Semaphore
    - Never assume!!
    - The “ageing” question

OUR TOPICS

- Legal Readiness
- Standards of Conduct and Ethics

LEGAL READINESS

- Mobilization Readiness
  - Personal Legal Readiness
    - Wills
    - Powers of Attorney
    - Other Preparation as Needed/Appropriate
  - USERRA/Employment and Reemployment Rights
- Training
  - Via CLAs and JAGs
  - Via Self-Directed Training
- Information
  - JAG Page on REDCOM Web Page

ELIGIBILITY for LEGAL ASSISTANCE

- PRIORITIZED
  - ACTIVE DUTY/ DEPENDENTS
  - RETIREES/DEPENDENTS
    - deceased
  - RESERVISTS ON ACTIVE DUTY
    - dependents
  - CIVILIANS OVERSEAS/DEPENDENTS
  - OTHERS AUTHORIZED BY JAG

OBJECTIVES OF LEGAL READINESS

- IMPROVE READINESS AND PERFORMANCE
- DECREASE LEGAL PROBLEMS FOR MILITARY COMMUNITY
- ENCOURAGE PERSONS TO SEEK HELP BEFORE PROBLEM ARISES

STANDARDS OF CONDUCT

OUR FOCUS:

- Basic Structure of Our Ethics System
- Where to turn with the really good questions?

BEDROCK

- Self-imposed, to insure full faith and confidence of American public
- Institutional & . . .
- Individual Integrity

SOURCES

- Criminal Statutes
- Executive Order
- Office of Government Ethics Regulations
- DoD 5500.7-R - Joint Ethics Regulation

TO WHOM DO THEY APPLY?

To “DoD Employees”, including:

- Any Reserve member on active duty under orders;
- Any Reserve member while performing official duties or while engaged in any activity related to the performance of such duties or functions, including any time the member uses his Reserve title or position, or any authority derived therefrom.

ENFORCEMENT

- Prosecution by U.S. Attorney
- Court-martial or NJP
- Administrative Action

GUIDING PRINCIPLES

- Public service is a public trust
- No use of public office for private gain
- No conflicts of interest
- No misuse of nonpublic information

GUIDING PRINCIPLES (con't)

- No preferential treatment
- No misuse of Government position, property or resources
- Must disclose fraud, waste, & abuse

GUIDING PRINCIPLES (con't)

Catch-All is Key:

- Avoid any action creating mere "appearance" of a violation ("If it looks bad, it is bad"). In doing so, consider:
- What is perspective of reasonable person with knowledge of relevant facts?

ETHICS ADVICE

- Ethics Counselor
  - CO's of Trial Service Offices
  - Flag Staff Judge Advocates
  - Other Designated JAGC and Office of General Counsel Attorneys
- Effect of Advice - "Safe Harbor"
- No Attorney - Client Privilege

CONFLICTS OF INTEREST

- Can’t take official action which will impact “your” personal financial interests
  - Imputed Interests
- Disqualification & Notification
- Financial Disclosure Reporting System

MISUSE OF POSITION

- Coercion of Benefits
- Appearance of Governmental Sanction or Endorsement
- Nonpublic Information
- Teaching, Speaking, and Writing Activities

MISUSE OF POSITION (con't)

- Assignment of Reserves for Training
  - Command responsibility
  - Individual responsibility
- Commercial Dealings between Service Members

MISUSE OF GOVERNMENT RESOURCES

- Property
  - MILAIR, barges, motor vehicles, mail, computers, telephones, copiers, etc.
- Time
- Employees

FUNDRAISING

- CFC and NMCRS Campaigns
  - Coercive practices
- Private Fundraising
  - No reference to Federal position
  - No solicitation of prohibited sources or subordinates

FUNDRAISING (con’t)

- Gambling
  - Prohibited on Government property or while on duty
  - Exceptions,
  - very limited,
  - with SECNAV approval

NON-FEDERAL ENTITIES

- Management
- Endorsement
- Fundraising
- Membership Drives
- Logistical Support of Events

TRAVEL

- Joint Federal Travel Regulations
- Acceptance of Official Travel Benefits
  - Frequent Flyer Miles
  - Overbooking

KEY PUBS

- NAVREGS
- MCM
- JAGMAN
- Joint Ethics Regulation (DOD DIR 5500.7)
- OPNAVINST 5370.2 (series) (fraternization)

KEY PUBS, cont'd

- OPNAVINST 5354.1D (CMEO; sexual harassment)
- OPNAVINST 5300.9 (series) (sex harass)
- OPNAVINST 5354.5 (series) (sex harass)
- MILPERSMAN (BUPERS web site)
- CNRF Legal Guide for CO's (P1600.12A)
- NJS Commander's "QuickMan" (web site)

REDCOM MID-ATLANTIC
STAFF JUDGE ADVOCATE

QUESTIONS?